

# DECISION



19754 Mr. LeVier  
THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548

FILE: B-204787

DATE: October 9, 1981

MATTER OF: Beacon Winch Company

## DIGEST:

1. Agency properly evaluated awardee's offered discount for payment within 20 days in determining awardee's bid to be low notwithstanding fact that cost of money to Government resulting from early payment would, according to protester, result in awardee's bid being higher than protester's, because IFB provided that prompt payment discounts for payment within 20 or more days would be evaluated and IFB did not provide for considering cost of money to Government in evaluating bids.
2. Allegation that awardee does not have ability to perform contract will not be considered because allegation relates to awardee's responsibility and GAO does not generally review affirmative determinations of responsibility except in circumstances not applicable here.

Beacon Winch Company protests the award of item 4 to Jechura Military Equipment under Invitation for Bids (IFB) No. DAAE07-81-B-5173 issued by the Department of the Army. Beacon maintains that its bid on item 4 results in an actual lower cost to the Government. Beacon also questions the ability of Jechura to perform the contract. For the reasons given below, Beacon's protest is denied in part and dismissed in part.

Beacon bid a unit price of \$1,710 with payment to be made within 30 days; Jechura bid a unit price of \$1,726 with a prompt payment discount of one percent for payment made within 20 days. After considering Jechura's prompt payment discount, the Army found Jechura's bid to be \$1,708.74 and an award was made to Jechura.

018911  
116630

The protester takes exception to the Army's consideration of Jechura's prompt payment discount. Beacon states that in order to take advantage of Jechura's discount the Army must pay Jechura at least 10 days before it pays Beacon, thereby precluding the Army of the use of its money for at least 10 days. As the Government must borrow money at an annual interest rate of at least 15 percent, the protester contends, the actual cost of the Jechura bid is more than the protester's.

Beacon's protest is without merit. The IFB provided that discounts for prompt payment within 20 or more days would be evaluated in determining the low bidder. In addition, Defense Acquisition Regulation (DAR) § 2-407.3(b) (1976) provides that discounts based on prompt payment within 20 or more days shall be considered in determining the low bid. Nothing in the IFB or the regulations provides for considering the cost of money to the Government in determining the low bidder. As an award must be made in accordance with the terms of the solicitation, see Refre and Associates, B-196097, April 25, 1980, 80-1 CPD 298, affirmed July 7, 1980, 80-2 CPD 13, Beacon's objections are without merit.

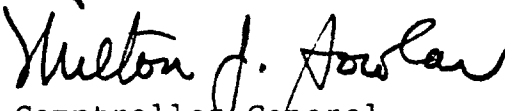
In addition, to the extent Beacon is questioning the IFB's failure to provide that the cost of money to the Government would be considered in determining the low bid, this objection is untimely since it was not filed prior to bid opening. See 4 C.F.R. § 21.2(b)(1) (1981). We note, however, that both the Department of Defense and the General Services Administration are currently considering amendments to the DAR and the Federal Procurement Regulations, respectively, which would eliminate the evaluation of prompt payment discounts due to various problems associated with evaluating prompt payment discounts, including the cost of money to the Government.

Beacon has also questioned the ability of Jechura to perform the contract; however, a bidder's ability to perform a contract is a matter of the bidder's responsibility and we do not generally review affirmative determinations of responsibility unless there is a showing of possible

fraud on the part of the procuring officials or the solicitation contains definitive responsibility criteria which have allegedly not been applied. Astrocom Electronics, Incorporated, B-203377.3, June 30, 1981, 81-1 CPD 546. Neither has been alleged here and therefore we will not consider this allegation.

As it was clear from Beacon's initial submission that it was without legal merit and not otherwise for our consideration, we decided the matter without requesting a report from the Army. Wilderness Research Institute, B-203326, June 19, 1981, 81-1 CPD 512.

The protest is denied in part and dismissed in part.

  
Acting Comptroller General  
of the United States